

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

x

UNITED STATES OF AMERICA, :
:
Plaintiff, :
:
v. : No 1:19-cv-2623
:
SYLVIA PAUL, :
:
Defendant. :

x

COMPLAINT

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to reduce to judgment unpaid federal tax liabilities owed by Sylvia Paul. For its complaint, the United States alleges as follows:

JURISDICTION AND PARTIES

1. The district court has jurisdiction pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1331, 1340, and 1345.
2. The defendant Sylvia Paul resides in Queens County, New York, within the jurisdiction of this Court.

COUNT ONE
(Claim to Reduce Income Tax Liabilities to Judgment)

3. A delegate of the Secretary of the Treasury made assessments against Sylvia Paul for income taxes and penalties for the periods, on the dates, and in the amounts described below, which have balances due as of May 3, 2019, , including assessed and accrued late-filing and late-payment penalties under 26 U.S.C. § 6651, costs, and statutory interest, and after applying any payments and credits, as follows:

Tax Period Ending	Assessment Date	Assessment Type	Amount Assessed	Balance Due 5/3/2019
12/31/2008	5/7/2009 2/6/2012	Tax Abatement	\$331,167 (\$98,622)	\$222,478.22
12/31/2011	5/28/2012	Tax	\$13,219	\$1,172.50
12/31/2016	6/5/2017	Tax	\$11,315	\$5,225.03
12/31/2017	6/4/2018	Tax	\$6,795	\$2,036.21
Total				\$230,911.96

4. Notice of the liabilities described in paragraph 3 was given to, and payment demanded from, Sylvia Paul.

5. Despite proper notice and demand, Sylvia Paul failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, she remains liable to the United States in the amount of \$230,911.96, plus statutory additions and interest accruing from and after May 3, 2019.

COUNT TWO
(Claim to Reduce Penalties for Frivolous Submissions to Judgment)

6. Sylvia Paul engaged in a fraudulent refund scheme commonly known as the “1099-OID scheme” for the tax year 2008.

7. Perpetrators of this tax fraud scheme advance a theory that the U.S. federal government maintains secret accounts for U.S. citizens and that taxpayers can gain access to the accounts by issuing 1099-OID forms to the IRS. See “IRS Releases the Dirty Dozen Tax Scams for 2013,” <https://www.irs.gov/newsroom/irs-releases-the-dirty-dozen-tax-scams-for-2013> (last visited on 6/26/2018).

8. Perpetrators of the fraud scheme assemble financial documents such as mortgage and loan statements, car payments, foreclosure records, bank statements, etc. and use fabricated tax

forms 1099-OID in a nonsensical manner to report a fictitious tax withholding in a very large amount, often well exceeding their income, to seek refunds to which they are not entitled.

9. 26 U.S.C. § 6702(a) imposes a penalty of \$5,000 on a person who files what purports to be a return of a tax but which does not contain information on which the substantial correctness of the self-assessment may be judged, or contains information that on its face indicates that the self-assessment is substantially incorrect, and whose conduct is based on a position which the Secretary has identified as frivolous, or reflects a desire to delay or impede the administration of Federal tax laws.

10. The IRS has published Notice 2010-33, which lists the 1099-OID scheme as a “frivolous” position subject to frivolous filing penalties under 26 U.S.C. § 6702. *See* Notice 2010-33, 2010-17 I.R.B. 609, 2010 WL 1347082, ¶¶ 21 and 22.

11. Sylvia Paul engaged in the 1099-OID scheme for the 2008 tax year and as a result of her frivolous tax submissions, Sylvia Paul received a fraudulent refund of \$234,893.

12. A delegate of the Secretary of the Treasury imposed and made assessments against Sylvia Paul pursuant to 26 U.S.C. § 6702 for making frivolous tax submissions for the 2008 tax year, on the date, and in the amount described below, which has a balance due as of May 3, 2019, including interest and costs, and after applying any payments and credits, as follows:

Tax Period Ending	Assessment Date	Assessment Type	Amount Assessed	Balance Due
12/31/2008	7/18/2011	Tax	\$15,000	\$20,012.04

13. Notice of the liability described in paragraph 12 was given to, and payment demanded from, Sylvia Paul.

14. Despite proper notice and demand, Sylvia Paul failed, neglected, or refused to fully pay the liability, and after the application of all abatements, payments, and credits, she remains liable

to the United States in the amount of \$20,012.04, plus statutory additions and interest accruing from and after May 3, 2019.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Sylvia Paul for income tax liabilities for the periods ending December 31, 2008, 2011, 2016, and 2017, in the amount of \$230,911.96, plus statutory additions and interest accruing from and after May 3, 2019, pursuant to 26 U.S.C. §§ 6601, 6621, 6622, and 28 U.S.C. § 1961(c);

B. Judgment against the defendant Sylvia Paul for frivolous tax submissions penalties under 26 U.S.C. § 6702 for the period ending December 31, 2008, in the amount of \$20,012.04, plus statutory additions and interest accruing from and after May 3, 2019, pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c); and,

C. The United States of America shall recover its costs, and be awarded such other and further relief as the Court determines is just and proper.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
Tax Division, U.S. Department of Justice

/s/ Pingping Zhang _____
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Pingping Zhang, counsel for United States of America, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
the complaint seeks injunctive relief,
 the matter is otherwise ineligible for the following reason **tax matters**

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more or its stocks:

N/A

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: N / A ..

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s/ Pingping Zhang

UNITED STATES DISTRICT COURT
for the
Eastern District of New York

United States of America)
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<i>Plaintiff(s)</i>)
v.) Civil Action No. 1:19-cv-2623
)
Sylvia Paul)
)
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<hr/>)
<i>Defendant(s)</i>)

SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*) **Sylvia Paul**
134-51 234th Street
Rosedale, NY 11422

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

PINGPING ZHANG
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington, D.C. 20044

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:19-cv-2623

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) _____
was received by me on (*date*) _____.

- I personally served the summons on the individual at (*place*) _____
on (*date*) _____; or
- I left the summons at the individual's residence or usual place of abode with (*name*) _____,
_____, a person of suitable age and discretion who resides there,
on (*date*) _____, and mailed a copy to the individual's last known address; or
- I served the summons on (*name of individual*) _____, who is
designated by law to accept service of process on behalf of (*name of organization*) _____
on (*date*) _____; or
- I returned the summons unexecuted because _____; or
- Other (*specify*): _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc: